

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON HIGHWAYS AND TRANSPORTATION**

**Call to Order:** By **CHAIRMAN ARNIE MOHL**, on March 20, 2001 at 4:25 P.M., in Room 405 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Arnie Mohl, Chairman (R)  
Sen. Ric Holden, Vice Chairman (R)  
Sen. Dale Berry (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Bob DePratu (R)  
Sen. Dan Harrington (D)  
Sen. Sam Kitzenberg (R)  
Sen. Jerry O'Neil (R)  
Sen. Gerald Pease (D)  
Sen. Glenn Roush (D)

**Members Excused:** Sen. Sam Kitzenberg (R)

**Members Absent:** None.

**Staff Present:** Connie Erickson, Legislative Branch  
Marion Mood, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 319, 3/2/2001;  
HJ 23, 3/2/2001;  
HB 529, 3/2/2001

Executive Action: HJ 23; HB 442  
HB 401; HB 403  
HB 529

HEARING ON HB 319

**Sponsor:** REP. KATHLEEN GALVIN-HALCRO, HD 48, GREAT FALLS

**Proponents:** Steve Turkiewicz, MT Auto Dealers Association

**Opponents:** None

**Opening Statement by Sponsor:**

REP. KATHLEEN GALVIN-HALCRO, HD 48, GREAT FALLS, stated that HB 319 is a consumer protection bill in that it requires the seller of a vehicle to inform the buyer of taxes and fees that are in arrears. She brought this bill forward because all too often, the buyer is unaware of the back taxes and is forced to pay them upon registering his vehicle. The person responsible for these taxes is the previous owner, or the auto dealer if he did not abate the vehicle properly, or in time. She maintained that if the buyer knew about the back taxes, he could have made a better deal or a different buying decision. She then went over several points of a yet to be drafted amendment (which will be included in the minutes of executive action)) to clarify the bill's intent.

**Proponents' Testimony:**

Steve Turkiewicz, Exec. VP, MT Auto Dealers Association, told the committee that he and his organization have worked with the sponsor on drafting this bill, and that they are comfortable with the proposed amendments. He went on record as also speaking for Jim Robinson, Independent Auto Dealers Association.

**Informational Testimony:**

Brenda Nordlund, DOJ, offered to answer any questions.

**Questions from Committee Members and Responses:**

SEN. JERRY O'NEIL asked, if he sold a car to a dealer at the end of February, how would he be able to find out what he owed in taxes. Brenda Nordlund replied his renewal notice would include the amount of taxes. The anniversary date is also noted, informing him of whether he is within the current tax period.

SEN. O'NEIL asked if the taxes in this case would be prorated or for the full year. Brenda Nordlund explained that the back taxes could be for up to a full year, but if the seller is two months in arrears, they would only be charged for two months. She

stated further that the dealer then begins the tax abatement process so that the taxes do not continue to accrue.

**CHAIRMAN ARNIE MOHL** asked if interest is charged on late payments. **Brenda Nordlund** thought there would be none.

**SEN. GLENN ROUSH** wondered if the problem addressed in HB 319 was widespread among auto dealers. **Steve Turkiewicz** stated it happens from time to time, but was a particular problem with regards to leased cars. He explained that the lease usually coincides with the length of time the license is in effect. If, at the end of the lease, neither the lessee nor the dealer purchases the vehicle, it goes back to the leasing company which normally bought the cars back, fixed them up and turned them over to an auction company, normally within two or three months. It is conceivable that this process could take up to a year, and taxes do accrue which the ultimate purchaser will have to pay; in some cases, the dealer will pick up the tab.

**SEN. O'NEIL** asked about penalties for non-compliance. **REP. GALVIN-HALCRO** informed him there were none; it was merely a disclosure. **SEN. O'NEIL** asked the same question again, and **REP. GALVIN-HALCRO** stated there was nothing punitive in the bill.

**Closing by Sponsor:**

**REP. GALVIN-HALCRO** closed on HB 319, saying all she wanted to do was to remove the element of surprise; the purchaser needed to know if there were back taxes on a vehicle he was planning on buying so he could make an informed decision.

**HEARING ON HJ 23**

**Sponsor:** **REP. DAVID WANZENRIED, HD 68, MISSOULA**

**Proponents:** **Barry Stang, MMCA**  
**Ben Havdahl, Multi-State Highway Transportation Agreement**  
**Dave Galt, Director, MDT**

**Opponents:** **None**

**Opening Statement by Sponsor:**

**REP. DAVID WANZENRIED, HD 68, MISSOULA**, opened by saying HJ 23 encouraged the state to improve motor carrier safety by pursuing federal monies. The motor carrier industry is very safety-

conscious, primarily because of insurance concerns. This resolution is designed to secure funding to help the smaller companies pursue safety issues beyond their current resources.

**Proponents' Testimony:**

**Barry Stang, MMCA**, submitted written testimony, **EXHIBIT**(his63a01).

**Ben Havdahl, MHTA**, also handed in written testimony, **EXHIBIT**(his63a02).

**Dave Galt, Director, MDT**, rose in support of HJ 23, saying it could enhance safety on Montana's highways, and help trucking companies with compliance of safety regulations.

**Questions from Committee Members and Responses:**

**SEN. VICKI COCCIARELLA** asked why the MMCA picked MSU for possible grant money. **Mr. Stang** explained that they picked MSU because MMCA and the department had worked with them before on motor carrier studies, and they had a reputable research facility.

**SEN. O'NEIL** asked whether insurance companies would fund these programs if federal monies were not available. **Mr. Galt** answered it was possible, but he was not aware of any such instance.

**Closing by Sponsor:**

**REP. WANZENRIED** closed on HJ 23.

**EXECUTIVE ACTION ON HJ 23**

**Motion/Vote:** **SEN. ROUSH** moved that **HJ 23 BE ADOPTED**. **Motion carried 8-1 with O'Neil voting no.** **SEN. GLENN ROUSH** will carry this bill on the floor.

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**HEARING ON HB 529**

**Sponsor:** **REP. JEFF PATTISON, HD 95, GLASGOW**

**Proponents:** **Barry Stang, MMCA**

**Opponents:**           None

**Opening Statement by Sponsor:**

**REP. JEFF PATTISON, HD 95, GLASGOW**, opened on HB 529, saying it increased the weight tolerance on overweight vehicles from 7% to 10%; increased the distance for these vehicles from a 50 mile radius to 100; and it eliminated the 40 mph speed limit for same.

**Proponents' Testimony:**

**Barry Stang, MMCA**, rose in support of HB 529. He felt it brought conformity and consistency to the law, and he welcomed that it extended the 10% tolerance to all trucks.

**Informational Testimony:**

**Dave Galt, MDT**, wanted to clarify the two different tolerances contained in the bill. First, there was the change from 7% to 10% which is allowed those carriers at the weigh station. They are not given a citation but rather a permit to travel to the nearest facility to get legal. Second, for the tolerances discussed on page 2, there is no enforcement action; they apply to farm vehicles transporting agricultural products from the field to the first point of unloading, and they are allowed a 20% tolerance during harvest time only. The tolerance is contingent on a 100 mile radius, up from 50 miles.

**Questions from Committee Members and Responses:**

**SEN. O'NEIL** asked about the language on page 2, lines 7 through 10. **Mr. Galt** explained that if any one of the provisions are exceeded, be it speed, distance or weight, then a fine is imposed based on the amount of weight over the legal limit, discounting the tolerance.

**CHAIRMAN MOHL** wondered what would happen if a farm vehicle was consistently over the limit, but within the allowed tolerance. **Mr. Galt** reminded him of the two different tolerances, the 20% plus restrictions on farm vehicles during harvest, and the 10% applying to all other trucks. If someone consistently loaded up to the 10% limit, more severe action could be taken.

**Closing by Sponsor:**

**REP. PATTISON** closed on HB 529, explaining that the radius was changed from 50 to 100 miles because central grain elevators had

been built to accommodate rail cars, and the distance to those was often greater than 50 miles.

#### EXECUTIVE ACTION ON HB 442

**VICE CHAIRMAN HOLDEN** introduced Amendment #HB044201.ace, **EXHIBIT(his63a03)**, and told the committee that if the bill was passed as drafted, it would not allow a judge any leeway because the minimum fine was set at \$250. This would be hard on some people, and unfair to the ones who inadvertently lose items out of the bed of their pickup. He went on to say that a \$1,000 for a diaper left by the roadside was too high. He stated that he had requested the amendment for those reasons.

**Motion:** SEN. HOLDEN moved that **AMENDMENT #HB044201.ACE BE ADOPTED.**

#### Discussion:

**SEN. O'NEIL** suggested changing line 27 to say "more" instead of "less", which was accepted by the members.

**Vote:** Motion that **AMENDMENT#HB044201.ACE WITH CHANGE BE ADOPTED carried 9-0.**

**Note:** The new amendment, #HB044201.ace, **EXHIBIT(his63a05)**, was submitted to the secretary on March 21, 2001.

**Motion/Vote:** SEN. HOLDEN moved that **HB 442 BE CONCURRED IN AS AMENDED. Motion carried 9-0.** SEN. DAN HARRINGTON will carry HB 442 on the Senate floor.

#### EXECUTIVE ACTION ON HB 401

**Motion:** SEN. ROUSH moved that **AMENDMENT #HB040102.ALK BE ADOPTED, EXHIBIT(his63a04)**

#### Discussion:

**SEN. GLENN ROUSH** suggested the sponsor explain the amendment.

**REP. MICHELLE LEE** stated that the amendment provides a sunset for HB 401. This was requested so it can be determined whether the provisions in the bill actually help decrease railroad vandalism. If it does, the time frame of the bill will be extended; if it fails to convince, it will be terminated.

**Vote:** Motion **carried 9-0.**

**Motion:** SEN. ROUSH moved that **HB 401 BE CONCURRED IN AS AMENDED.**

**Discussion:**

**VICE CHAIRMAN HOLDEN** informed the committee that **SEN. KITZENBERG** opposed this bill because the county had to fund the incarceration of violators under this statute.

**SEN. O'NEIL** felt this was duplicate and unnecessary legislation. **SEN. BOB DEPRATU** differed with **SEN. KITZENBERG** since railroads are part of our community, pay taxes, and are a business just like any other. If someone vandalizes a business, or causes them financial loss, our laws provide for the perpetrator to be put in jail.

**SEN. DALE BERRY** asked what the ramifications were. **Russ Ritter** addressed **SEN. O'NEIL'S** concerns and said that is why they had requested the sunset. They intended to attach the provisions in this bill to Operation Lifesaver and take it to the schools, to show the kids how serious this vandalism is.

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He repeated that HB 401 gave the railroads a component of law, saying this is railroad vandalism and there are consequences.

**SEN. BERRY** commented that incarceration for such an offense did not happen on a daily basis, alleviating **SEN. KITZENBERG'S** concerns about cost to the counties.

**CHAIRMAN MOHL** called for a roll call vote.

**Vote:** Motion that **HB 401 BE CONCURRED IN AS AMENDED** carried 9-1 with **Kitzenberg** voting no. **SEN. DEPRATU** will carry this bill in the Senate.

**EXECUTIVE ACTION ON HB 403**

**Motion/Vote:** **SEN. O'NEIL** moved that **HB 403 BE TABLED**. Motion carried 6-4 with **Berry, Cocchiarella, Harrington, and Pease** voting no, on a roll call vote.

**EXECUTIVE ACTION ON HB 529**

**Motion/Vote:** **SEN. COCCHIARELLA** moved that **HB 529 BE CONCURRED IN**. Motion carried 9-0. **SEN. COCCHIARELLA** will carry HB 529 in the Senate.

**ADJOURNMENT**

Adjournment: 5:30 P.M.

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SEN. ARNIE MOHL, Chairman

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MARION MOOD, Secretary

AM/MM

**EXHIBIT** (his63aad)